



January 12, 2010

## HOUSE BILL No. 1111

DIGEST OF HB 1111 (Updated January 11, 2010 5:33 pm - DI 116)

**Citations Affected:** IC 4-15; IC 9-13; IC 10-17; IC 36-8.

**Synopsis:** Merchant marine. Provides that a merchant marine is considered a member of the armed forces for purposes of hiring preferences for state employment. Makes changes to the definition of "armed forces" to include service in the merchant marine for matters relating to the bureau of motor vehicles. Authorizes the Indiana department of veterans' affairs to aid and assist merchant marines entitled to benefits by the United States, the state, or another state or government. Authorizes the Indiana veterans' home to admit as members: (1) certain individuals who served in the merchant marine; or (2) the spouse or surviving spouse of certain individuals who served in the merchant marine. Provides that a merchant marine is considered a member of the armed forces for purposes of hiring preferences for a city police or fire department. Provides that a merchant marine is considered a member of the armed forces for purposes of hiring preferences for a sheriff's department. Provides that a merchant marine is considered a member of the armed forces for purposes of hiring preferences for a township fire department.

**Effective:** July 1, 2010.

**Barnes, Ruppel, Herrell, Reske**

January 5, 2010, read first time and referred to Committee on Veterans Affairs and Public Safety.  
January 12, 2010, reported — Do Pass.

HB 1111—LS 7011/DI 116+



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January 12, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

## HOUSE BILL No. 1111

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A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 4-15-2-18, AS AMENDED BY P.L.3-2008,  
2       SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2010]: Sec. 18. (a) The rating of each test shall be completed  
4       and the resulting list established not later than thirty (30) days after the  
5       date on which the test was held, unless such time is extended by the  
6       director for reasons which the director shall record in the official  
7       records of the department. The final earned rating of each person  
8       competing in any test shall be determined by the weighted average of  
9       the earned ratings of the test, according to weights for each phase  
10      established by the director in advance of the giving of the test. The  
11      names of all persons attaining the minimum final earned ratings  
12      established by the director in advance of the giving of the tests shall be  
13      placed upon the eligible list in order of their ratings. The names of  
14      persons who have indicated in writing that they are unwilling to accept  
15      appointment may be dropped from the list. All persons competing in  
16      any test shall be given written notice of their final earned ratings.  
17      Statements of former employers of the applicants shall be confidential.

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A manifest error in rating a test shall be corrected if called to the attention of the director, but such correction shall not invalidate any appointment previously made from such a list.

(b) In certification for appointment, in appointment, in reinstatement, and in reemployment in any state service, preference shall be given to former members of the military services of the United States who served on active duty in any branch of the armed forces **or merchant marine** and who at no time received a discharge or separation under other than honorable conditions, except corrected separation or discharge to read "honorable" as evidenced by appropriate records presented from the United States Department of Defense or appropriate branch of the military service.

(c) Preference shall be given in the following priorities:

(1) Former members of the military service who have established the present existence of a service connected disability of ten percent (10%) or more, as evidenced by records of the United States Department of Veterans Affairs or disability retirement benefits as evidenced by laws administered by the United States Department of Defense.

(2) The spouse of a veteran with a service connected disability and the unremarried spouse of a deceased veteran.

(3) Those former members of the military service who are wartime veterans.

(4) Veterans of the military service who served more than one hundred eighty-one (181) days on active duty, regardless of when served.

(d) In all written examinations to determine the qualifications of applicants for entrance into state service:

(1) ten (10) points shall be added to the earned rating of persons taking the competitive examination under subsection (c)(1) or (c)(2);

(2) five (5) points shall be added to the earned ratings of persons taking the competitive examination under subsection (c)(3); and

(3) two (2) points shall be added to the earned rating of persons taking the competitive examination under subsection (c)(4).

(e) All points specified in subsection (d) shall be added to the total combined test scores of the person and shall not be allocated to any single feature or part of the competitive examination. Rating shall be based on a scale of one hundred (100) points as the maximum attainable.

(f) When veterans preference in state service employment is limited to wartime veterans, this subsection applies for the purpose of defining

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"war":

(1) World War II - December 7, 1941, to December 31, 1946.

(2) Korean Conflict - June 27, 1950, to January 31, 1955.

(3) Viet Nam Conflict - August 5, 1964, to May 7, 1975.

(4) Actual combat or duty equally hazardous, regardless of time, or service in any foreign war, insurrection, or expedition, which service is recognized by the award of a service or campaign medal of the United States.

(5) Participation as a regularly assigned crew member of any military craft in a mission in support of a military operation, regardless of time, as designated by the armed forces of the United States.

(g) Active duty consists of:

(1) ninety (90) days or more wartime service;

(2) ninety (90) days or more consecutive service which began or ended during wartime period;

(3) ninety (90) days or more combined service in two (2) or more wartime periods;

(4) service of less than ninety (90) days, if discharged for a disability in the line of duty; or

(5) service qualifying under subsection (f)(4) or (f)(5), which must be documented by appropriate records of the United States Department of Defense.

(h) In examinations where experience is an element of qualification, time spent in the armed forces **or merchant marine** of the United States shall be credited in a veteran's rating where the veteran's actual employment in a similar vocation to that for which the veteran is examined was interrupted by such service. In all examinations to determine the qualifications of a veteran applicant, credit shall be given for all valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether any compensation was received for the experience.

(i) In determining qualifications for examination, appointment, promotion, retention, transfer, or reinstatement, with respect to preference eligibles, the department shall waive requirements as to age, height, and weight, if the requirement is not essential to the performance of the duties of the position for which examination is given. The department, after giving due consideration to the recommendation of any accredited physician, shall waive the physical requirements in the case of any veteran, if the veteran is, in the opinion of the director, physically able to discharge efficiently the duties of the position for which the examination is given. No minimum educational

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1 requirement may be prescribed in any civil service examination except  
 2 for such scientific, technical, or professional positions, the duties of  
 3 which the department decides cannot be performed by a person who  
 4 does not have such education. The director shall make a part of the  
 5 department's public records the director's reasons for such decision.

6 (j) The names of preference eligibles shall be entered on the  
 7 appropriate registers or lists of eligibles in accordance with their  
 8 respective augmented ratings. The name of a preference eligible shall  
 9 be entered ahead of all others having the same rating.

10 (k) The director shall adopt appropriate rules under IC 4-22-2 for  
 11 the administration and enforcement of this section.

12 (l) In any reduction in personnel in any state service, competing  
 13 employees shall be released in accordance with board regulations  
 14 which shall give due effect to tenure of employment, military  
 15 preference, length of service, and efficiency ratings. The length of time  
 16 spent in active service in the armed forces **or merchant marine** of the  
 17 United States of each such employee shall be credited in computing  
 18 length of total service. Veteran's preference points shall be added to the  
 19 retention score of a preference eligible. When any of the functions of  
 20 any state agency are transferred to, or when any state agency is  
 21 replaced by, some other state agency or agencies, all preference  
 22 employees in the function or functions transferred or in the agency  
 23 replaced shall first be transferred to the replacing agency or agencies  
 24 for employment in positions for which they are qualified, before the  
 25 agency or agencies appoint additional employees from any other  
 26 sources for such positions.

27 (m) Any preference eligible who has resigned may, at the request of  
 28 any appointing officer, be certified for and appointed to any position  
 29 for which the preference eligible has been a regular employee in the  
 30 state service.

31 (n) Any preference eligible who has been furloughed or separated  
 32 without delinquency or misconduct, upon request, shall have the  
 33 preference eligible's name placed on all appropriate registers and  
 34 employment lists, for every position for which the preference eligible's  
 35 qualifications have been established.

36 (o) Applicants claiming preference of their own service must submit  
 37 either:

- 38 (1) original discharge or separation or certified copies or photostat
- 39 copies of the originals;
- 40 (2) an official statement from the United States Department of
- 41 Defense showing record of service; or
- 42 (3) an official statement from the United States Department of

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Veterans Affairs supporting the claim for disability.

SECTION 2. IC 4-15-2.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. (Veterans) All veterans of the armed forces **and merchant marine** of the United States shall be granted a preference in employment as is now or hereinafter provided by IC ~~1971~~, 4-15-2.

SECTION 3. IC 9-13-2-101 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 101. "Member of the armed forces of the United States" means a person who served or serves on active military or naval service in the land, air, or naval forces of the United States. The term ~~does not include~~ **includes** service in the merchant ~~marines~~ **marine**.

SECTION 4. IC 10-17-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. The purpose of this chapter is to create a department with full authority to aid and assist veterans of the armed forces **and merchant marine** of the United States entitled to benefits or advantages provided on or after March 3, 1945, by the United States, the state, or another state or government.

SECTION 5. IC 10-17-9-7, AS AMENDED BY P.L.21-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) The following persons who are legal residents of Indiana for at least three (3) years immediately preceding application for admission and who have a disability or are destitute are eligible for admission to the home:

(1) An honorably discharged member of the armed forces **or merchant marine** who has served with the United States in any of its wars.

(2) An honorably discharged member of the armed forces **or merchant marine** who has served in an authorized campaign of the United States and who has a service connected disability, as evidenced by a pension certificate or the award of compensation.

(3) The spouse of an honorably discharged member of the armed forces **or merchant marine** described in subdivision (1) or (2).

(4) The surviving spouse of an honorably discharged member of the armed forces **or merchant marine** described in subdivision (1) or (2).

(b) The department of veterans' affairs shall adopt rules concerning admission to the home.

(c) In adopting rules governing the admission, maintenance, and discharge of members of the home, the department of veterans' affairs may establish a fund called the veterans' home comfort and welfare fund. The director shall deposit all money collected from the members

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1 for the cost of their care and maintenance in the fund. The director  
2 shall expend this money in any manner that adds to the comfort and  
3 welfare of the members of the institutions.

4 (d) A part of the veterans' home comfort and welfare fund may be  
5 withdrawn and deposited in a special fund called the veterans' home  
6 building fund. The veterans' home building fund shall be used for the  
7 construction, maintenance, remodeling, or repair of buildings of the  
8 Indiana Veterans' Home.

9 (e) Preference under this section may be given to a person who  
10 served in an Indiana military organization. Except in cases where the  
11 surviving spouse of a veteran marries another veteran, the benefits of  
12 this chapter extend only to a surviving spouse and the spouse of a  
13 veteran if the contract of marriage was entered into more than five (5)  
14 years before the date of death of the veteran. Except as otherwise  
15 provided by law, upon the death of a person in the home, money paid  
16 to the person or due to the person from a bank, a trust company, a  
17 corporation, or an individual becomes an asset of the person's estate  
18 and shall be distributed in the manner prescribed by the probate law of  
19 the state.

20 SECTION 6. IC 36-8-4-10 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) Subject to  
22 subsection (b), the board or persons having the authority to employ  
23 members of the fire or police department shall give a preference for  
24 employment according to the following priority:

25 (1) A war veteran who has been honorably discharged from the  
26 United States armed forces **or merchant marine.**

27 (2) A person whose mother or father was a:

28 (A) firefighter of a unit;

29 (B) municipal police officer; or

30 (C) county police officer;

31 who died in the line of duty (as defined in IC 5-10-10-2).

32 (b) A person described in subsection (a) may not receive a  
33 preference for employment unless the person:

34 (1) applies; and

35 (2) meets all employment requirements prescribed:

36 (A) by law, including physical and age requirements; and

37 (B) by the fire or police department.

38 SECTION 7. IC 36-8-10-10.4 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10.4. (a) Subject to  
40 subsection (b), the board shall give a preference for employment  
41 according to the following priority:

42 (1) A war veteran who has been honorably discharged from the

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United States armed forces **or merchant marine**.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or

(C) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

(b) A person described in subsection (a) may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed:

(A) by law, including physical and age requirements; and

(B) by the department.

SECTION 8. IC 36-8-13-3, AS AMENDED BY P.L.182-2009(ss), SECTION 439, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The executive of a township, with the approval of the legislative body, may do the following:

(1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide services in that area. Preference in employment under this section shall be given according to the following priority:

(A) A war veteran who has been honorably discharged from the United States armed forces **or merchant marine**.

(B) A person whose mother or father was a:

(i) firefighter of a unit;

(ii) municipal police officer; or

(iii) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

A person described in this subdivision may not receive a preference for employment unless the person applies for employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a

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contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have some part of the municipal territory within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance to have the township provide the services without a contract.

(2) The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of a year.

(c) This subsection applies only to a township that:

(1) is located in a county containing a consolidated city;

(2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within the township on January 1, 1996; and

(3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the included town's municipal territory completely within the township. A township may provide fire protection or emergency services, or both, without contracts inside the corporate boundaries of the municipalities

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1 if before August 1 of the year preceding the first calendar year to which  
2 this subsection applies the township legislative body passes a  
3 resolution approving the township's provision of the services without  
4 contracts to the municipality. The resolution must identify the included  
5 towns to which the resolution applies. In a township providing services  
6 to a municipality under this section, the legislative body of the  
7 township may opt out of participation under this subsection by adopting  
8 a resolution before July 1 of a year. A copy of a resolution adopted  
9 under this subsection shall be submitted to the executive of each  
10 included town covered by the resolution, the county auditor, and the  
11 department of local government finance.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1111, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

TINCHER, Chair

Committee Vote: yeas 12, nays 0.

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